

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Daniel Casados (3)	Team: Squad #3	CCRB Case #: 201710579	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Thursday, 12/14/2017 7:40 PM	Location of Incident: In front of 217-30 54th Avenue	Precinct: 111	18 Mo. SOL 6/14/2019	EO SOL 6/14/2019	
Date/Time CV Reported Thu, 12/14/2017 8:30 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 12/26/2017 10:58 AM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Brian Bang	20481	938022	111 PCT
2. POM Gregory Quinn	19174	958642	111 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Gregory Quinn	Force: Police Officer Gregory Quinn used physical force against § 87(2)(b)	
B.POM Brian Bang	Force: Police Officer Brian Bang used physical force against § 87(2)(b)	
C.POM Brian Bang	Abuse: Police Officer Brian Bang searched the vehicle in which § 87(2)(b) was an occupant.	
D.POM Brian Bang	Abuse: Police Officer Brian Bang interfered with § 87(2)(b)'s use of a recording device.	
E.POM Brian Bang	Abuse: Police Officer Brian Bang searched § 87(2)(b)'s recording device.	
F.POM Brian Bang	Abuse: Police Officer Brian Bang deleted information on § 87(2)(b)'s electronic device	

### Case Summary

§ 87(2)(b) filed this complaint with IAB, via telephone, on December 14, 2017. The CCRB received this complaint on December 26, 2017, under log number 17-50218. § 87(2)(b) a witness in the case, provided cellphone video that captured a small portion of the incident, but the video did not show any clear misconduct.

On December 14, 2017, at approximately 7:40 p.m., § 87(2)(b) was working as an Uber driver and dropped off a passenger, § 87(2)(b) in the vicinity of 217-30 54<sup>th</sup> Avenue in Queens. After dropping off the passenger, § 87(2)(b) observed a police vehicle behind him, which subsequently turned on its lights and stopped § 87(2)(b)'s vehicle. PO Brian Bang and PO Gregory Quinn, of the 111<sup>th</sup> Precinct, approached § 87(2)(b)'s vehicle and requested § 87(2)(b)'s license and registration. PO Quinn then allegedly opened § 87(2)(b)'s door, pulled him out of the vehicle, and took him to the ground (**Allegation A: Force, miscellaneous - § 87(2)(g)**). While § 87(2)(b) was on the ground, PO Bang allegedly stepped on his lower back, causing him pain (**Allegation B: Force, § 87(2)(g)**) and reached into § 87(2)(b)'s vehicle, entered the center console, and removed § 87(2)(b)'s wallet to obtain his license (**Allegation C: Abuse of Authority, § 87(2)(g)**). PO Bang also allegedly removed § 87(2)(b)'s cellphone, which was attached to the AC vent and was recording at the time (**Allegation D: Abuse of Authority, § 87(2)(g)**). § 87(2)(b) was then placed in handcuffs. Afterward, PO Bang allegedly entered § 87(2)(b)'s phone and deleted the video that had been recording (**Allegation D: Abuse of Authority, § 87(2)(g)**). **Allegation F: Abuse of Authority, § 87(2)(g)** § 87(2)(b) was issued a summons for § 87(2)(b), and the officers then departed.

### Findings and Recommendations

#### **Allegation (A) Force: Police Officer Gregory Quinn used physical force against § 87(2)(b)**

It is undisputed that § 87(2)(b) was the driver of the vehicle which was stopped by PO Bang and PO Quinn. A vehicle stop allegation was not been pleaded because § 87(2)(b) was issued a summons for a § 87(2)(b), so the allegation would amount to a summons dispute.

§ 87(2)(b) stated that at the time that he dropped off his passenger, § 87(2)(b) he observed through his rearview mirror that there was a police vehicle behind him. When § 87(2)(b)'s passenger exited the vehicle and went across the street to his residence, the officers turned on their police lights and PO Bang and PO Quinn exited their vehicle and walked to the driver's side. PO Quinn requested § 87(2)(b)'s license and registration, to which § 87(2)(b) responded by asking why he was stopped. The officers did not answer him, and PO Quinn requested his license again with an "attitude." § 87(2)(b) then told the officers to call a sergeant. At no point did § 87(2)(b) state that he would not provide his license. After requesting a sergeant, the officers requested § 87(2)(b)'s license and registration again more aggressively. § 87(2)(b) explained that he has two phones in his vehicle and that these phones are attached on a phone mount to the left of the steering wheel. One of the cellphones was recording a video, and he informed the officers that his cellphone was recording the interaction. PO Quinn then put his hand through the window, opened the driver's side door, pulled § 87(2)(b) out of the vehicle, and took him to the ground. § 87(2)(b)

§ 87(2)(b) did not resist when PO Quinn performed this action. § 87(2)(b) landed face first, on his right side. PO Quinn then applied pressure on § 87(2)(b)'s back to hold him down and both officers told him to stop resisting and then placed him in handcuffs.

§ 87(2)(b) provided a phone statement that was generally consistent with § 87(2)(b)'s statement regarding how the incident started. After being dropped off and walking into his home, § 87(2)(b) looked through his window and observed officers attempting to speak with the driver for a minute or two. § 87(2)(b) could not hear the conversation. It appeared to § 87(2)(b) that § 87(2)(b) did not want to exit the vehicle, so one officer removed the male's seatbelt and pulled him out. After he was removed, § 87(2)(b) appeared to be speaking to the officers, but then § 87(2)(b) tried to "distance himself" from the officers by moving or walking away as the officers attempted to grab him, after which an officer pushed him to the ground. § 87(2)(b) added that it was "like a shove from the back." § 87(2)(b) landed on his knees first. Afterward, § 87(2)(b) was handcuffed (BR 01).

PO Quinn resigned from the NYPD on January 10, 2018, so the CCRB was unable to interview him for this case (BR 02).

PO Bang stated that he observed § 87(2)(b) run through a stop sign, after which PO Bang and PO Quinn pursued the vehicle with their lights on. § 87(2)(b) did not pull over and just continued driving at a normal rate of speed; he traveled approximately eight blocks before stopping at the incident location. PO Bang observed that § 87(2)(b) had a § 87(2)(b) license plate and believed him to be driving with a passenger, which was seemingly confirmed when he saw an individual exit the vehicle and walk towards a house. After stopping the vehicle, PO Quinn approached the driver's side while PO Bang approached the passenger's side. PO Quinn asked for § 87(2)(b)'s license and registration, and then the driver said something in response, but PO Bang could not hear what was said at first. Afterward, PO Quinn requested the information again and PO Bang heard the driver say, "Tell me why I'm being stopped." At that point, PO Bang believed that the driver was giving PO Quinn "a hard time," so PO Bang walked around to the driver's side. PO Quinn requested § 87(2)(b)'s license five to seven times, but § 87(2)(b) responded to these requests by asking the officers to tell him why he was being stopped or by telling them that he would give it to them when they told him why he was being stopped. At that point, § 87(2)(b) took his cell phone out and put it through the window, approximately six inches away from the officers' faces. PO Bang considered that action to be interfering with what they were doing, so he grabbed the phone and put it on top of § 87(2)(b)'s vehicle. Neither PO Bang nor PO Quinn issued any instructions to § 87(2)(b) prior to grabbing the phone. § 87(2)(b) had his arm out for two to three seconds before PO Bang grabbed the phone.

Immediately after, § 87(2)(b) then reached down towards his right leg and towards the floor, somewhere between the center console and the floor of the vehicle. PO Bang did not know if § 87(2)(b) was reaching for "a gun or what," so officers opened the door, grabbed his arms, and pulled him three quarters of the way to the back of the vehicle. Right away, he was turned around and he was placed in handcuffs for the officers' safety. § 87(2)(b) did not physically resist being placed in handcuffs. PO Bang denied taking § 87(2)(b) to the ground, but he recalled that they "spun him around quick" and that he went down to one knee as they were turning him around to place him against the vehicle, after which they placed him in handcuffs and lifted him up. PO Bang denied that he, or his partner, took § 87(2)(b) to the ground and applied pressure to his back when holding him down.



201710579\_20181109\_1757\_DM.mp4

(BR 03)

This clip is 13 seconds long and it was derived from a cellphone video provided to the CCRB by § 87(2)(b). It also appears to be a cellphone recording of a video that is playing on a laptop. The video is of low quality because it was filmed at some distance from § 87(2)(b) and the officers. The video begins with § 87(2)(b) standing upright in the middle of the street. As § 87(2)(b) zooms in, § 87(2)(b) moves forward while officers are making physical contact with him. It is unclear whether § 87(2)(b) is moving of his own accord or whether the officers are pushing him forward. At the 00:02 mark, § 87(2)(b) falls forward to the ground, and both officers crouch down over him, but it is unclear what physical actions the officers are taking as they are over him. The video does not depict what preceded § 87(2)(b) going to the ground.

PO Bang's § 87(2)(g), as his description of how § 87(2)(b) was taken to the ground differs substantially from the statements provided by § 87(2)(b) and § 87(2)(b). The video also appears to contradict PO Bang's statement that § 87(2)(b) went "down on one knee," as the video clearly shows § 87(2)(b) falling forward to the ground after potentially being pushed. PO Bang did not describe any type of resistance from § 87(2)(b) that would have necessitated the use of force against him.

§ 87(2)(g)  
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§ 87(2)(g)

**Allegation (B) Force: Police Officer Brian Bang used physical force against § 87(2)(b)**

**Allegation (C) Abuse of Authority: Police Officer Brian Bang searched the vehicle in which § 87(2)(b) was an occupant.**

§ 87(2)(b) alleged that while PO Quinn held down on the ground, PO Bang stepped on his lower back as he reached into § 87(2)(b)'s vehicle to get the cellphone that was recording. PO Bang also entered the center console and removed § 87(2)(b)'s wallet to obtain his license. § 87(2)(b) did not give PO Bang permission to enter his vehicle or to obtain his license and cellphone. § 87(2)(b) estimated that he was on the ground for approximately five minutes. Afterward, § 87(2)(b) asked the officers why they had done that to him, and the officers responded that it was because he was resisting and because he did not give them his license and registration.

As discussed above, PO Bang stated that § 87(2)(b) refused to provide his license to the officers after numerous requests. PO Bang noted that after § 87(2)(b) was removed from the vehicle and was in handcuffs, he used his flashlight on the driver's seat, the floor, and the passenger's seat to see what § 87(2)(b) was reaching for, during which his head went past the threshold of the vehicle as he was looking around with his flashlight. PO Bang also observed § 87(2)(b)'s license on the driver's seat, so he grabbed it. PO Bang did not

have to open any compartments to find § 87(2)(b)'s license, and he noted that the license was out on its own and he did not have to enter a wallet to retrieve it. PO Bang denied that he stepped on the male's lower back to enter the vehicle and to obtain the cellphone or wallet. He stated that his foot never made contact with § 87(2)(b)'s back.



201710579\_20181111\_1331\_DM.mp4

(BR 04)

This two-second cellphone video, provided by § 87(2)(b) shows § 87(2)(b) on the ground with officers over him. It is evident that § 87(2)(b) is on the ground parallel to the front left wheel, beyond the open driver's side door.

In People v. Pryor, the courts determined that it is permissible for officers to perform a limited search of the vehicle, including the glove compartment, for documentation as part of issuing a lawful summons when there is no alternative method available to obtain the documentation, 896 N.Y.S.2d 575 (2009) (BR 06). No alternative method available can include the operator of the vehicle being unable or unwilling to provide documents. Id.

§ 87(2)(g)

§ 87(2)(g)

**Allegation (D) Abuse of Authority: Police Officer Brian Bang interfered with § 87(2)(b)'s use of a recording device.**

**Allegation (E) Abuse of Authority: Police Officer Brian Bang searched § 87(2)(b)'s recording device.**

**Allegation (F) Abuse of Authority: Police Officer Brian Bang deleted information on § 87(2)(b)'s electronic device.**

§ 87(2)(b) alleged that after PO Bang grabbed his cellphone from inside the vehicle, he told him that he was going to erase the video. The officers also allegedly told § 87(2)(b)

§ 87(2)(b) that they were going to remove the handcuffs and that he would not receive a summons if he erased the video, did not say anything about what happened, and did not go to the hospital. § 87(2)(b) noted that he was afraid because he was alone and it was dark in the area, so he agreed to the “deal.” § 87(2)(b)’s phone was already unlocked, but PO Bang asked § 87(2)(b) for instructions on how to delete the video and asked him if he was sure that there was no “cloud” on the phone. § 87(2)(b) told PO Bang that there was none and he instructed PO Bang to go into the gallery icon and to delete the video, which PO Bang proceeded to do. The officers then removed the handcuffs, and they returned to the police vehicle with § 87(2)(b)’s license. § 87(2)(b) also returned to his vehicle. The officers remained in their vehicle for approximately 20 minutes. Afterward, PO Bang returned and issued him a summons. § 87(2)(b) asked him why he had given him a ticket after he had promised not to give him one. PO Bang then told § 87(2)(b) that he was issuing him a summons because he did not stop at a stop sign. The officers then departed.

§ 87(2)(b) stated that after § 87(2)(b) was handcuffed, an officer went to § 87(2)(b)’s vehicle and grabbed § 87(2)(b)’s phone through the open driver’s side door. § 87(2)(b) recalled that the cellphone was attached to the AC vent in the vehicle, near the center console. § 87(2)(b) noted that the officer looked at the phone for a little bit, and that he “was just holding onto it.” § 87(2)(b) could not recall if he observed the officer looking through the phone. After ten minutes, the Uber driver was released from the handcuffs and he was allowed to go.

As discussed earlier, PO Bang stated that he grabbed § 87(2)(b)’s phone from out of his hand and put it on top of § 87(2)(b)’s vehicle – while § 87(2)(b) was still inside the vehicle – because he believed that § 87(2)(b) was interfering with their work. PO Bang did not touch any other cellphones besides the one he originally grabbed, and neither he nor PO Quinn had a conversation with § 87(2)(b) regarding any video § 87(2)(b) potentially recorded. PO Bang denied that he deleted a video from § 87(2)(b)’s cellphone, and he denied telling § 87(2)(b) that he would not issue him a summons if he instructed him how to delete the video from his cellphone. PO Bang did not handle § 87(2)(b)’s phone after placing it on the roof of the vehicle, and he assumed that § 87(2)(b) grabbed it after he was released and allowed to return to his vehicle.



201710579\_20181109\_1829\_DM.mp4

(BR 07)

This 31-second clip, derived from a cellphone video provided by § 87(2)(b) shows PO Bang at § 87(2)(b)’s vehicle, standing in between the driver’s side door and the driver’s seat. § 87(2)(b) is upright near the rear-left wheel, handcuffed, and facing away from his vehicle. PO Quinn is in front of him. At the 00:18 mark, PO Bang walks over to § 87(2)(b). At the 00:29 mark, it is evident that PO Bang is holding a cellphone in his left hand because the screen lights up.



201710579\_20181111\_1358\_DM.mp4

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(BR 08)

This 2-minute clip, derived from the same cellphone video as above, shows PO Bang and § 87(2)(b) in the same position as the video above. PO Bang's back is to the camera, but his head appears to be tilted down and his forearms are not visible, indicating that they are extended in front of him. At the 00:08 mark, his right forearm becomes visible, but he remains with his head tilted down as if he is looking at something. He is not looking at § 87(2)(b). At the 00:39 mark, § 87(2)(b) leans over towards PO Bang as if he is attempting to look at the same thing PO Bang is looking at. At the 01:00 mark, PO Quinn takes a few steps towards PO Bang and § 87(2)(b) and leans towards them as well, as if he is also attempting to see what they are looking at. At the 01:39 mark, PO Bang begins walking back towards the driver's side of § 87(2)(b)'s vehicle. For a brief moment, an object is visible in PO Bang's left hand, which is also extended as if he is holding something. The driver's side door is not visible in the video, so PO Bang goes out of frame until the 01:47 mark, when he returns and assists PO Quinn in removing § 87(2)(b)'s handcuffs. At the 01:54 mark, PO Bang's left hand is visible, and it appears that he no longer has the cellphone in his left hand.

Individuals have a right to lawfully observe and/or record police activity including, but not limited to detentions, searches, arrests, or uses of force. This right to observe and/or record police action can be limited for reasons such as the safety of officers or other members of the public, or when a violation of law is committed by the individual who is observing/videotaping. Officers should not delete any pictures or recordings from observer's recording device or order observer to delete such pictures or recordings. NYPD Patrol Guide, Section 203-29 (BR 09).

Consent is voluntary when it is a “true act of the will, an unequivocal product of an essentially free and unconstrained choice.” *People v. Gonzalez*, 39 N.Y.2d 122 (1976) (BR 10).

PO Bang's testimony regarding his interaction with § 87(2)(b)'s cellphone is highly suspect. First, PO Bang's assertion that § 87(2)(b) stuck the phone out of the window and interfered with the officers' job does not correspond to the statement provided by § 87(2)(b) who corroborated § 87(2)(b)'s testimony that PO Bang removed a cellphone from inside § 87(2)(b)'s vehicle after § 87(2)(b) had been forcibly removed. Additionally, the video provided by § 87(2)(b) contradicts PO Bang's assertion that he did not handle § 87(2)(b)'s phone, as the video shows him walking from the open driver's side door of § 87(2)(b)'s vehicle towards § 87(2)(b) with a cellphone in his left hand, and it shows PO Bang's forearms positioned in a manner that is consistent with someone holding a cellphone in front of them. Later in the video, PO Bang is shown walking out of frame towards the driver's side of § 87(2)(b)'s vehicle and then returning without the cellphone he had been holding previously, which indicates that the phone he was handling belonged to § 87(2)(b).

§ 87(2)(g)

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Squad No.: \_\_\_\_\_

Investigator: \_\_\_\_\_  
Signature Print Title & Name Date

Squad Leader: \_\_\_\_\_  
Signature Print Title & Name Date

Reviewer: \_\_\_\_\_  
Signature Print Title & Name Date